

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

THO MY TIEU (3)

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Case No. 4:07cr2
(Judge Folsom)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 13, 2011, to determine whether Defendant violated her supervised release. Defendant was represented by Denise Benson. The Government was represented by Maureen Smith.

On September 10, 2007, Defendant was sentenced by the Honorable Marcia A. Crone to twenty-eight (28) months' custody followed by three (3) years of supervised release for the offense of Conspiracy to Distribute or Dispense or Possess with Intent to Distribute or Dispense MDMA or Ecstasy and Cocaine. On February 11, 2009, Defendant completed her period of imprisonment and began service of her supervised term. On February 3, 2010, this case was transferred to the Honorable David Folsom.

On March 10, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state, or local crime; and (2) the defendant shall refrain from any unlawful use of a controlled substance. The petition also alleges a violation of the following standard condition: the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or

any paraphernalia related to any controlled substances, except as prescribed by a physician.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Guideline range is imprisonment for four to ten months. The Court recommends that Defendant's supervised release be revoked. The Court further finds there is cause to downward depart.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of three (3) months with no supervised release to follow.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 16th day of May, 2011.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE